

JAMESTOWN SANITARY DISTRICT

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August 29, 1999

Todd Thompson, Associate engineer
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Subject: Draft EIR Covering General Waste Discharge Requirements for Biosolids Land Application

Dear Mr. Thompson,

Attached, please find the District's Comments on the Draft EIR.

Sincerely,



Ron Boyd-Snee
Operations Manager

Enclosures

1. Executive Summary: The Executive Summary states that the purpose of the EIR is to comply with a Superior Court decision. The summary would also lead the reader to understand that a State wide program was required as result of that court order. It is our understanding that the Superior Court allowed application of Class A Biosolids to continue indefinitely. Further, Water Code Section 13274 allowed either the State Board or regional Boards to adopt a General Order for Biosolids land application. If this is the case, a no action alternative, for projects receiving approval in the form of an EQ Waiver for the Regional Water Quality Control Boards CVR, should be included.

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b. The Summary also states that one of the objectives create a cost effective program and to streamline the permitting process. Neither of these provisions were included in the court decision or Water Code Section. We commented on future costs to POTW'S in our previous correspondence, however, cost efficiency was excluded as a consideration in this, an environmental document. All costs considerations and efficiencies should be considered on an equal basis or not considered at all.

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c. The objective of a State wide program may not be achievable or practical. California is diverse in climate, topography and culture. A "one size fits all" runs counter current to this diverse land. Further, Counties are able to regulate or even ban biosolids applications. It would appear that the main objective of the GO is to accommodate those generators which cannot land apply within their own jurisdictions and must export to other areas. It has been our experience that the real public issue is the import of waste from other communities. Adoption of the GO would only serve to increase apprehension in areas thought suitable for biosolids imports.

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2. The Draft GO

a. The drafted GO contains language regarding public concern over the bulk application of Class A biosolids. It is important to point out that there is no way to qualify this statement. This statement appeared in the draft GO prior to the public meetings held throughout the state. This statement is a result of a political special interest group being allowed to add unsubstantiated claims to the draft GO.

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It is our experience that those person(s) concerned about biosolids application do not differentiate between class A or B biosolids. The statement regarding public concern over class A biosolids should be eliminated from consideration unless and until that concern reaches the State Board by the public through the CEQA process. There is no single political special interest group that is authorized to speak on behalf of the citizens of California.

The draft GO equates regulation with oversight. This is a serious mistake. If the public is concerned about oversight, then the solution would be to provide that assurance of sufficient oversight. Restrictive regulation, in of itself, does not meet the expectation of increased oversight. The DEIR also fails to recognize that this concern with oversight was addressed in the National Research Council's report Use of Reclaimed Water and Sludge in Crop Production. That report recommends that oversight be accomplished on a local level, and we concur. We have encouraged the County to form a citizen's oversight committee staffed as necessary with representatives from the agricultural commissioner's office, environmental health and planning departments.

AFFECT ON PUBLIC WORKS PROJECTS

Our biosolids reuse project is a public works project. The project was developed to both satisfy the District's Waste Discharge Requirements and provide long term solution for residuals management. This phase is only one element in an over all plan to relocate the District's Wastewater Plant within the next several years to this site. The project complied with CEQA and was permitted by the Regional Water Quality Control Board on a site specific basis. It is not our intent to question the State Board's authority to further regulate biosolids, but rather to call attention to the issue of existing public works projects which would be affected. Absent evidence of a risk to public, public works projects should be allowed to continue. The State Board should not allow special interest groups to condition public works projects after the fact and once they have complied with all applicable laws and have adequate permitting. To revisit a public works project and impose additional restrictions years later (absent a risk to the public) would undermine the ability of any project, public or private, to continue.

AFFECT ON AGRICULTURE

Further regulation may hamper the State's agriculture. As was mentioned in the Draft EIR, little or no silviculture utilizing biosolids exists in California. However, also noted was the existence of biosolids projects in the Pacific Northwest. Our project is a pilot project which would demonstrate the effective use of biosolids in silviculture in California at lower elevations. Potentially, California could enter the same markets as the Pacific Northwest for poplar wood. The proposed GO would eliminate our demonstration project and we are unaware of any similar project within the State. Due to the sizable investment of capital, this project and its potential market, may never be realized as the risk of ever changing regulation would deter investment.

Hybrid Poplars and other high nutrient adsorbing crops would actually reduce the amount of land needed for biosolids application. As stated earlier, these trees can utilize up to 380 lbs of N/ac/yr or five times the amount utilized by dry land pasture.

Additionally, Hybrid Poplar trees are used for soil remediation using a process termed "phyto-remediation". Studies are also being conducted to determine the carbon sequestration capabilities of Hybrid Poplar which could be significant in addressing the issue green house gas. All of the district's work in these areas are funded through biosolids application with the return of the investment to be made by sale of product.

GENERAL COMMENTS:

It is unclear how the proposed action would affect existing projects. If enacted as proposed and applied to the Jamestown project, it is most likely the project would be abandoned. Existing residences are well with the 500 ft set back requirements. To avoid the General Order, the district could apply at 10 tons per acre or less. This would equate to approximately 30 lbs of nitrogen per acre per year (N/ac/yr) while a mature Hybrid Poplar tree's uptake 380 lbs (N/ac/yr). Additionally, more ground would be needed under the GO each year in order to satisfy both the District's need and regulatory requirements.

The proposed GO is far too conservative relative to set back requirements for wells and residences especially for EQ Class A biosolids. Application of biosolids at agronomic rates is an ample safeguard for protection of ground water. Existing regulations are ample to safeguard nearby residences from nuisances.

Although we understand the requirement for a GO (Water Code Section 13274) we question the wisdom of "one size fits all". Perhaps the State Board should influence the legislature to allow permitting either by General Order or specific WDR whichever is better suited to the individual project. Many of the public's concerns regarding biosolids land application can be addressed through site and crop selection, and project management.

Individual Counties which have or will ban or effectively ban biosolids reuse on land should be made responsible for the resulting impacts to other areas.

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Responses to Comments from the Jamestown Sanitary District

- 8-1. The No-Project Alternative in the draft EIR is based on the assumption that land application would continue to be regulated in its current form by the RWQCBs through individual waste discharge requirements or exemptions. This analysis, therefore, includes a continuation of EQ waivers and individual WDRs issued by the RWQCBs as allowed under existing regulations. A new or separate alternative is not needed to assess the effects of this no-action situation.
- 8-2. The referenced portion of the draft EIR is on pages 2-8 through 2-10. This section describes the SWRCB's program objectives, which include providing a streamlined permitting process for the regulated community. The EIR contains the program's environmental effects; a complete economic evaluation has not been undertaken in this document because it is not considered a CEQA issue.
- 8-3. A program EIR is not a "one size fits all" document. Rather, it is intended to provide a broad environmental analysis of a large program (in this case, the proposed GO). An individual project (in this case, a specific application request) would be reviewed by the RWQCB with jurisdiction over the application site. If the project meets all of the proposed GO's requirements, the RWQCB could approve the project using the program EIR as CEQA compliance. A project that does not meet those requirements or presents exceptional circumstances may be required to apply for an individual permit and undergo additional environmental review.

The commenter also states that adopting the proposed GO would increase apprehension of biosolids land application. We disagree; the proposed GO is designed so that the land application of biosolids can occur in a conservative manner, whether using local biosolids or biosolids from outside the area.

- 8-4. This portion of the proposed GO has been re-evaluated and changed. The text of the proposed GO, as found in Finding No. 2 of Appendix A, now reads:

However, ~~public acceptance to it is believed that~~ large scale uses ~~has indicated the need for require oversight~~ at this time, regardless of the actual threat to water quality ~~while done when applied~~ at agronomic rates and using best management practices. ~~The perception~~ Accordingly, this General Order can be applied to such sites to ensure that biosolids are being properly used ~~of and not an activity of unregulated dumping necessitates that t.~~ This regulatory tool may be used to regulate material that is land applied . . .

This accurately describes and conveys the concern regarding Class A EQ biosolids.

- 8-5. Nothing in this action pre-empts local authority on this issue. Proactive efforts by communities to address this issue can only support or supplement adequate oversight. This is not a process that forces communities to use or cease using biosolids where the existing applications are performed in a manner that protects water quality and the environment. It is acknowledged that regulation and oversight are not equals. But the proposed GO process involves regulatory oversight which includes inspections, monitoring, and interaction with regulatory staff. Hence, the proposed process involves both regulation and oversight.
- 8-6. See Master Response 2.
- 8-7. Experimental projects, in most cases, will not comply with all conditions of the proposed GO and must be addressed on a site-specific basis through the application for waste discharge requirements process or as a formal waiver. Such projects are not “typical” land application operations and are therefore unlikely to fall within the scope of the proposed GO. Nothing in the process would exclude individual experimental projects from being permitted using individual waste discharge requirements.
- 8-8. See Response to Comment 8-7.
- 8-9. The proposed GO has been modified to include a footnote allowing for a lesser setback if not opposed by the adjacent landowners within 500 feet of the operation, and approval of the Executive Officer. Also see Master Response 2.
- 8-10. The setbacks for wells allow for lesser distances provided that adequate conditions are met. See Response to Comment 8-9 regarding offsite residences.
- 8-11. The proposed GO’s intent is to provide a consistent statewide framework for approval of biosolids application projects. The nine RWQCBs retain decision-making approval over projects in their jurisdictions regarding their ability to be approved under the proposed GO or the need to undergo additional review and analysis, possibly including specific waste discharge requirements.
- 8-12. Comment noted. It is the responsibility of the public and the involved government entities to fully evaluate the effects of local bans on biosolids application.